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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Ana Ramirez,

No. CV-22-01151-PHX-JAT

Plaintiff,

ORDER

V.

**Commissioner of Social Security
Administration,**

Defendant.

Plaintiff Ana Ramirez (“Plaintiff”) challenges the denial of her application for disability insurance benefits by the Social Security Administration (“Defendant”) under Title II of the Social Security Act (“Act”). Plaintiff filed a Complaint (Doc. 1) with this Court seeking judicial review of that denial. The Court has reviewed the briefs (Docs. 13, 16, 17) and the Administrative Record (Doc. 12, “A.R.”), and now affirms the Administrative Law Judge’s (“ALJ”) decision.

I. BACKGROUND

Plaintiff filed a Title II application for disability insurance benefits on December 21, 2015, for a period of disability beginning on February 1, 2012. (A.R. at 302–03.) The Acting Commissioner of Social Security (“Commissioner”) denied Plaintiff’s application initially on June 13, 2016 (A.R. at 147–85), and upon reconsideration on November 29, 2016. (*Id.*) Thereafter, Plaintiff filed a request for a hearing, which was held on May 9, 2018. (A.R. at 121–45.) At the hearing, Plaintiff amended her alleged onset date of disability to September 1, 2015. (A.R. at 122.) The ALJ denied Plaintiff’s application on

1 June 6, 2018. (A.R. at 15–25, 1843–53.) The Appeals Council denied Plaintiff’s request
 2 for review on September 12, 2018. (A.R. at 1–4, 1861–64.) Plaintiff appealed the decision
 3 with the district court pursuant to 42 U.S.C. § 405(g), and on March 26, 2019, the court
 4 remanded the case to the ALJ to issue a new decision. (A.R. 1878.) On March 16, 2020,
 5 the ALJ again found Plaintiff was not disabled. (A.R. at 1776–91, 2349–64.) Plaintiff
 6 sought judicial review of that decision, and in an order dated June 28, 2021, the district
 7 court remanded the case to the ALJ for further proceedings. (A.R. at 2379–87.) Following
 8 the third hearing before the ALJ, on March 23, 2022 (A.R. at 2303–45), and in a decision
 9 dated June 22, 2022, the ALJ denied Plaintiff’s application. (A.R. at 2261–87.¹) Plaintiff
 10 has timely sought judicial review with this Court pursuant to 42 U.S.C. § 405(g).

11 The Court has reviewed the medical evidence and administrative record and will
 12 discuss the pertinent evidence in addressing the issues raised by the parties. Upon
 13 reviewing the medical evidence and opinions, the ALJ evaluated Plaintiff’s disability
 14 application based on the following severe impairments: status post cervical anterior
 15 discectomy and fusion, cervical spondylosis, cervical radiculopathy, lumbar degenerative
 16 disc disease, remote history of ankle surgery, status post lower extremity deep venous
 17 thrombosis, status post right basilica vein thrombophlebitis, obesity, factor V deficiency,
 18 fibromyalgia, gastroesophageal reflux disease, and anxiety and depression disorders. (A.R.
 19 2284–2285.)

20 The ALJ found that Plaintiff did not have an impairment or combination of
 21 impairments that met or medically equaled the severity of one of the listed impairments
 22 under 20 C.F.R. Part 404, Subpart P, Appendix 1. (A.R. at 2268–2269.) Next, the ALJ
 23 determined Plaintiff’s residual functional capacity (“RFC”).² The ALJ found:

24 After careful consideration of the entire record, the
 25 undersigned finds that the claimant had the residual functional
 26 capacity to perform light work as defined in 20 CFR [§]

27 ¹ (Doc. 12-24 at 9-35 of the district court’s electronic record).

28 ² Residual functional capacity refers to the most a claimant can still do in a work setting
 despite his or her limitations. 20 C.F.R. § 404.1545(a)(1).

1 404.1567(b) and 416.967(b) except she could frequently climb
 2 ramps and stairs, occasionally climb ladders, ropes, and
 3 scaffolds, frequently balance, occasionally stoop, kneel,
 4 crouch and crawl. She should not have been exposed to hazards
 5 such as moving machinery and unprotected heights. The
 6 claimant was able to perform simple routine work involving
 7 simple work related decisions and simple instructions with few
 8 changes in the work setting.

9 (A.R. at 2272.) Based on this RFC, the ALJ found Plaintiff could not perform past relevant
 10 work but could perform other jobs existing in significant numbers in the national economy,
 11 such as office helper, electronics worker, and garment sorter. (A.R. at 2285–2286.) As a
 12 result, the ALJ concluded that Plaintiff was not disabled under sections 216(i) and 223(d)
 13 of the Act. (A.R. at 2287.³)

12 II. LEGAL STANDARD

13 In determining whether to reverse an ALJ’s decision, the district court reviews only
 14 those issues raised by the party challenging the decision. *See Lewis v. Apfel*, 236 F.3d 503,
 15 517 n.13 (9th Cir. 2001). The Court may set aside the Commissioner’s determination only
 16 if it is not supported by substantial evidence or is based on legal error. *Orn v. Astrue*, 495
 17 F.3d 625, 630 (9th Cir. 2007). Substantial evidence is relevant evidence that a reasonable
 18 person might accept as adequate to support a conclusion considering the record as a whole.
 19 *Id.* To determine whether substantial evidence supports a decision, the Court must consider
 20 the record as a whole and may not affirm simply by isolating a “specific quantum of
 21 supporting evidence.” *Id.* Generally, “[w]here the evidence is susceptible to more than one
 22 rational interpretation, one of which supports the ALJ’s decision, the ALJ’s conclusion
 23 must be upheld.” *Thomas v. Barnhart* 278 F.3d 947, 954 (9th. Cir. 2002) (citations
 24 omitted). The substantial evidence threshold “defers to the presiding ALJ, who has seen
 25 the hearing up close.” *Biestek v. Berryhill*, 587 U.S. —, 139 S. Ct. 1148, 1157 (2019); *see*
 26 *also Thomas v. CalPortland Co.*, 993 F.3d 1204, 1208 (9th Cir. 2021) (noting substantial
 27 evidence “is an extremely deferential standard”).

28 ³ (Doc. 12-24 at 35).

1 To determine whether a claimant is disabled, the ALJ follows a five-step process.
 2 20 C.F.R. § 404.1520(a). The claimant bears the burden of proof on the first four steps, but
 3 the burden shifts to the Commissioner at step five. *Tackett v. Apfel*, 180 F.3d 1094, 1098
 4 (9th Cir. 1999). At the first step, the ALJ determines whether the claimant is presently
 5 engaging in substantial gainful activity. 20 C.F.R. § 404.1520(a)(4)(i). If so, the claimant
 6 is not disabled, and the inquiry ends. *Id.* At step two, the ALJ determines whether the
 7 claimant has a “severe” medically determinable physical or mental impairment. *Id.* §
 8 404.1520(a)(4)(ii). If not, the claimant is not disabled, and the inquiry ends. *Id.* At step
 9 three, the ALJ considers whether the claimant’s impairment or combination of impairments
 10 meets or medically equals an impairment listed in Appendix 1 to Subpart P of 20 C.F.R.
 11 Part 404. 20 C.F.R. § 404.1520(a)(4)(iii). If so, the claimant is automatically found to be
 12 disabled. *Id.* At step four, the ALJ assesses the claimant’s RFC and determines whether the
 13 claimant is still capable of performing past relevant work. *Id.* § 404.1520(a)(4)(iv). If so,
 14 the claimant is not disabled, and the inquiry ends. *Id.* If not, the ALJ proceeds to the fifth
 15 and final step, where the ALJ determines whether the claimant can adjust to perform any
 16 other work in the national economy based on the claimant’s RFC, age, education, and work
 17 experience. *Id.* § 404.1520(a)(4)(v). If no adjustment can be made to other work, the
 18 claimant is disabled.

19 **III. ANALYSIS**

20 Plaintiff raises two claims of error on appeal.⁴ Plaintiff argues the ALJ’s decision to
 21 increase Ms. Ramirez’s RFC from sedentary to light is not supported by substantial
 22 evidence because the ALJ (1) violated the law of the case doctrine by not adhering to the
 23 ALJ’s prior RFC determination; and (2) did not properly evaluate medical opinions. (Doc.
 24 17 at 1.) Plaintiff also argues, because the ALJ erred, this case should be remanded for a
 25 computation of benefits. (*Id.* at 2.) Each issue is addressed in turn.

26
 27 ⁴ Plaintiff’s opening brief raised whether the ALJ erred by “failing to cite substantial
 28 evidence to support her finding of a moderate limitation in concentration, persistence, and
 pace.” (Doc. 13 at 1.) But, in Plaintiff’s reply brief Plaintiff withdrew the argument, so the
 Court did not review that issue. (Doc. 17 at 1.) See *Lewis*, 236 F.3d at 517 n.13.

1 **A. The Law of the Case Doctrine and the Rule of Mandate**

2 Plaintiff argues that the law of the case doctrine should preclude the ALJ from
 3 revisiting the prior RFC determination absent any new, highly probative evidence. (Doc.
 4 17 at 2). Defendant argues that the ALJ’s less restrictive RFC determination should not be
 5 precluded by the law of the case doctrine. (*See* Doc. 16 at 11 n.6.)

6 The law of the case doctrine and the rule of mandate doctrine apply in the social
 7 security context. *Stacy v. Colvin*, 825 F.3d 563, 566 (9th Cir. 2016). The law of the case
 8 doctrine generally prohibits a court from reconsidering an issue that has already been
 9 decided by that same court or a higher court in the same case. *See Hall v. City of Los*
 10 *Angeles*, 697 F.3d 1059, 1067 (9th Cir. 2012). This doctrine aims to promote the efficient
 11 operation of courts. *Milgard Tempering, Inc. v. Selas Corp. of Am.*, 902 F.2d 703, 715 (9th
 12 Cir. 1990). The rule of mandate applies when a judge gives instructions on remand. *United*
 13 *States v. Cote*, 51 F.3d 178, 181 (9th Cir. 1995). The rule of mandate is “similar to, but
 14 broader than, the law of the case doctrine.” *Id.* Upon receipt of instructions, a lower court
 15 “cannot vary [the instructions] or examine [the instructions] for any other purpose than
 16 execution.” *Id.*; *see also Ischay v. Barnhart*, 383 F. Supp. 2d 1199, 1218–19 (C.D. Cal.
 17 2005) (remanding to the ALJ with instructions to focus exclusively on step 5, but when the
 18 ALJ went back to step 4 and made a new RFC determination, the court reversed the ALJ’s
 19 RFC determination reasoning “it was clear the remand was solely for purposes of
 20 permitting the ALJ to re-determine whether Plaintiff was disabled at step five”). But when
 21 the mandate does not explicitly preclude a lower court from reassessing a prior
 22 determination, revisiting it is “not necessarily prohibited.” *See Cote*, 51 F.3d at 181–82.

23 Following Plaintiff’s first hearing with the ALJ, the ALJ determined Plaintiff had a
 24 *light* RFC level. (A.R. at 19.) Plaintiff appealed, and per a stipulation by the parties, the
 25 district court granted the motion for stipulated remand, instructing the ALJ to “reevaluate
 26 the medical evidence[.]” (*Id.* at 1878.) Following Plaintiff’s second hearing before the ALJ,
 27 the ALJ determined Plaintiff had a *sedentary* RFC level. (*Id.* at 1783.) Plaintiff appealed
 28 for the second time and the district court remanded again, in part because the ALJ “erred

1 in failing to appropriately evaluate the medical opinions of Plaintiff's treating providers
2 and Plaintiff's symptom testimony." (*Id.* at 2387.) The district court's remand instructions
3 acknowledged the new hearing before the ALJ would aid in confirming or amending
4 Plaintiff's RFC level. (*Id.*) Following Plaintiff's third hearing before the ALJ, the ALJ
5 determined Plaintiff had a *light* RFC level, and Plaintiff appealed to this Court. (*Id.* at
6 2272.)

7 Here, the district court previously twice reversed the ALJ to properly evaluate
8 medical evidence on remand. In each instance, a new RFC determination was made. When
9 a higher court instructs a lower court to revisit part of a step in the disability determination
10 process, absent instructions to the contrary, the ALJ may consider other parts of that same
11 step. *Stacy*, 825 F.3d at 568 (holding that “[b]y asking the ALJ to correct [claimant’s] RFC,
12 [the court] also impliedly instructed the ALJ to reconsider step 4 and determine whether
13 someone with that corrected RFC could perform [claimant’s] past work.”) Here, like in
14 *Stacy*, when the district court remanded due to a deficiency with one part of the step 4
15 analysis, the ALJ received an implied instruction to also determine this new analysis’s
16 effect on another part of step 4.

17 Plaintiff cites *Stacy* for the proposition that the ALJ can only change Plaintiff’s RFC
18 when there is “new, highly probative evidence.” (Doc. 17 at 4.) In *Stacy*, however, two
19 prior ALJs reviewed step 4 and found that Stacy could not perform his past work. *Stacy*,
20 825 F.3d at 566–67. The ALJ on remand discovered “new, highly probative testimony
21 about [claimant’s] ability to perform his past work and made a new finding supported by
22 that testimony.” *Id.* at 567. Thus, although “new, highly probative evidence” was sufficient
23 in *Stacy* to make a new RFC determination, the Court of Appeals did not state that “new
24 highly probative evidence” was necessary for the ALJ make a new determination. *Id.* at
25 568.⁵

²⁶ More specifically, in *Stacy* the Court of Appeals stated.

27 The law of the case doctrine generally prohibits a court from considering an
28 issue that has already been decided by that same court or a higher court in the
same case. *Hall v. City of Los Angeles*, 697 F.3d 1059, 1067 (9th Cir. 2012).
The doctrine is concerned primarily with efficiency, and should not be applied

1 Because Plaintiff's RFC level was not foreclosed by mandate, and an implied
 2 instruction to revisit Plaintiff's RFC level at step 4 existed, the ALJ did not violate the law
 3 of the case or rule of mandate by making a new step 4 finding. This new finding, however,
 4 must be supported by substantial evidence.

5 **B. Medical Opinion Evidence**

6 Plaintiff argues the ALJs light RFC determination is not supported by substantial
 7 evidence because “the ALJ erred in rejecting the opinions of Dr. Mehta, Carroll NP, and

8 when the evidence on remand is substantially different, when the controlling
 9 law has changed, or when applying the doctrine would be unjust. *See Merritt v.
 Mackey*, 932 F.2d 1317, 1320 (9th Cir. 1991). ...

10 Here, there were two prior step 4 findings by ALJs that Stacy could not
 11 perform his past work. Although these findings were never affirmed by the
 12 district court on review, this is typically the type of determination that should
 13 not be reconsidered under the law of the case doctrine.

14 But this is not the typical case. On remand, the second ALJ was surprised to
 15 hear new evidence that Stacy mostly performed supervisory tasks in his past
 16 job. This new testimony led a VE to conclude, for the first time, that Stacy could
 17 still perform the job of stationary engineer supervisor as that job is generally
 18 performed. **The ALJ properly considered this new, highly probative
 19 testimony** about Stacy's ability to perform his past work and made a new
 20 finding supported by that testimony. Given the new evidence on remand, the
 21 district court did not abuse its discretion in declining to apply the law of the case
 22 doctrine.

23 “The rule of mandate is similar to, but broader than, the law of the
 24 case doctrine.” *United States v. Cote*, 51 F.3d 178, 181 (9th Cir. 1995). The rule
 25 provides that any “district court that has received the mandate of an appellate
 26 court cannot vary or examine that mandate for any purpose other than executing
 27 it.” *I Hall*, 697 F.3d at 1067. The district court may, however, “decide anything
 28 not foreclosed by the mandate.” *Id.*

Stacy v. Colvin, 825 F.3d 563, 567–68 (9th Cir. 2016) (emphasis added).

Applying *Stacy* in an unpublished disposition, the Court of Appeals stated: “Absent ‘new, highly probative’ evidence, ‘[t]he law of the case doctrine generally prohibits a court from considering an issue that has already been decided by that same court or a higher court in the same case.’ *Stacy v. Colvin*, 825 F.3d 563, 567 (9th Cir. 2016).” *Johnson v. Kijakazi*, No. 19-17359, 2022 WL 1553259, at *1 (9th Cir. May 17, 2022). The Court of Appeals application of *Stacy* in *Johnson* is binding on this Court in Ms. Johnson's case: *Johnson v. Commissioner*, CV 23-1524-PHX-JAT.

However, for purposes of this case, this Court need only apply the plain language of the published opinion in *Stacy*. In *Stacy*, the Court of Appeals held it was not error to consider new, highly probative evidence on remand. The Court of Appeals further held that when new, highly probative evidence causes the court to reconsider a prior finding, such reconsideration is also not error. This Court's reading of *Stacy*, however, does not include the broader proposition that an RFC (or other prior finding) can be changed only when there is new, highly probative evidence. As stated in *Merritt*, “substantially different” evidence is only one of three possible reasons that the law of the case doctrine might not apply. 932 F.2d at 1320.

1 Dr. Downs.” (Doc. 17 at 3.)

2 While “[t]he ALJ must consider all medical opinion evidence” for claims filed
 3 before March 27, 2017, such as this one, the ALJ must consider those opinions within the
 4 hierarchy among the sources of medical opinions. *Tommasetti v. Astrue*, 533 F.3d 1035,
 5 1041 (9th Cir. 2008); *see also Garrison v. Colvin*, 759 F.3d 995, 1012 (9th Cir. 2014).
 6 Those who have treated a claimant are treating physicians, those who examined but did not
 7 treat the claimant are examining physicians, and those who neither examined nor treated
 8 the claimant are non-examining physicians. *Lester v. Chater*, 81 F.3d 821, 830 (9th Cir.
 9 1995). “As a general rule, more weight should be given to the opinion of a treating source
 10 than to the opinion of doctors who did not treat the claimant.” *Id.* Treating physicians have
 11 the advantage of in-person interaction and typically a longer history of treatment than a
 12 claimant’s other doctors, and their “subjective judgments . . . are important, and properly
 13 play a part in their medical evaluations.” *Embrey v. Bowen*, 849 F.2d 418, 422 (9th Cir.
 14 1988); *see also Winans v. Bowen*, 853 F.2d 643, 647 (9th Cir. 1987).

15 An ALJ “may only reject a treating or examining physician’s uncontradicted
 16 medical opinion based on ‘clear and convincing reasons.’” *Carmickle v. Comm’r of Soc.*
 17 *Sec. Admin.*, 533 F.3d 1155, 1164 (9th Cir. 2008) (citing *Lester*, 81 F.3d at 830–31).
 18 “Where such an opinion is contradicted, however, it may be rejected for specific and
 19 legitimate reasons that are supported by substantial evidence in the record.” *Id.* An ALJ
 20 meets this standard by “setting out a detailed and thorough summary of the facts and
 21 conflicting medical evidence, stating his interpretation thereof, and making findings.”
 22 *Magallanes v. Bowen*, 881 F.2d 747, 751 (9th Cir. 1989).

23 **1. Dr. Rajal Mehta**

24 Since 2014, Plaintiff has seen Dr. Mehta, a primary care physician, for treatment of
 25 her impairments. (A.R. at 1483.) In August 2016, Dr. Mehta provided a medical opinion
 26 that Plaintiff’s impairments would preclude her from performing sedentary work. (A.R. at
 27 1483–1486.) Dr. Mehta estimated Plaintiff would miss more than five days of work per
 28 month due to her impairments. (*Id.* at 1485.) His assessment indicated that Plaintiff would

1 have to lie down or recline for three hours prior to sitting up, standing, or walking. (*Id.* at
2 1484.) Similarly, Dr. Mehta opined that Plaintiff's legs would need to be elevated forty-
3 five degrees for eighty percent of an eight-hour workday. (*Id.* at 1486.) Additionally, his
4 assessment indicated that Plaintiff experiences pain and stress severe enough to interfere
5 with the attention and concentration needed to perform simple work tasks for at least five
6 hours of an eight-hour workday. (*Id.* at 1483.) Dr. Mehta also indicated that Plaintiff would
7 need to take a break from work every hour to lay down, and that each break would be on
8 average between thirty to sixty minutes. (*Id.* at 1486.)

9 Dr. Mehta noted, however, that no cane or assistive device was necessary for
10 Plaintiff's occasional standing or walking. (*Id.*) Dr. Mehta notably did not find that because
11 of Plaintiff's impairments, Plaintiff would be "unable to obtain and retain work in a
12 competitive work environment, 8 hours per day, 5 days per week." (*Id.* at 1485.) This report
13 was based on Plaintiff's history and medical files, physical examinations, progress and
14 office notes, laboratory reports, and X-Rays, CT scans or MRIs. The report was not based
15 on any psychological evaluations. (*Id.* at 1485.)

16 The ALJ assigned "minimal weight to [Dr. Mehta's] opinion." (*Id.* at 2283.) The
17 ALJ found that Dr. Mehta's "treatment records do not corroborate [the] degree of
18 limitations alleged." (*Id.* at 2282.) The ALJ contends that during several prior visits to Dr.
19 Mehta, the examinations were normal, except for some limited range of motion, and
20 minimal work restrictions. (A.R. at 813–17, 2282.) The ALJ points out that during most
21 visits, there was a list of more than sixty impairments, but treatment from Dr. Mehta was
22 "restricted to one or two" consisting of conservative medication management, and
23 examinations showing minimal abnormalities. (A.R. at 759–65, 848–52, 2282.)
24 Additionally, the records show that Plaintiff helped take care of her grandchildren during
25 treatment. (*Id.* at 2282.) This, the ALJ reasoned, is inconsistent with Dr. Mehta's opinion
26 that Plaintiff would have to have her legs elevated eighty percent of the day, never to lift
27 more than five pounds, and to never reach. (*Id.*) Moreover, Dr. Mehta claimed that Plaintiff
28 needed to lie down more than three hours prior to standing, sitting, or walking again. (*Id.*

1 at 1484.) But Dr. Mehta also claimed Plaintiff would need to only take thirty to sixty minute
 2 breaks at work every hour. (*Id.* at 1486.) The ALJ reasoned that, because each break would
 3 include laying down, the two statements create an internal inconsistency. (*Id.* at 2282.) The
 4 ALJ reasoned this inherent inconsistency made Dr. Mehta’s opinion less persuasive. (*Id.*)
 5 Lastly, the ALJ points to examination findings from Dr. Mehta that state Plaintiff had “full
 6 strength in her lower extremities, [] lack of muscle atrophy,” a “normal physical exam,”
 7 and “no neurological defects.” (*Id.* at 2283.)

8 Plaintiff argues that the ALJ’s reasons for discounting Dr. Mehta’s opinion “failed
 9 to meet the standard of specific and legitimate.” (A.R. at 2386.) Additionally, Plaintiff
 10 claims that because only a short paragraph was added to the end of the ALJ’s discussion
 11 affording Dr. Mehta minimal weight, and the prior decision did not meet the standard of
 12 legitimate, this decision too does not meet the standard of legitimate. (Doc. 17 at 4.)

13 Here, the ALJ provided specific and legitimate reasons for discounting Dr. Mehta’s
 14 opinion, so no error occurred. When a treating doctor’s opinion is inconsistent or
 15 contradictory to their own notes, the ALJ does not err in affording less weight to the
 16 opinion. *See Batson v. Comm’r of Soc. Sec.*, 359 F.3d 1190, 1195 (9th Cir. 2004) (affirming
 17 the ALJ’s rejection of a treating source opinion for being inconsistent with treatment
 18 notes); *Ford v. Saul*, 950 F.3d 1141, 1154 (9th Cir. 2020) (“A conflict between a treating
 19 physician’s opinion and her own notes is a reason to not rely on the opinion.”).

20 As the ALJ explained, Dr. Mehta opined that Plaintiff needs: (1) to lie down for
 21 three hours prior to standing, sitting, or walking again; and (2) to take frequent work
 22 breaks—which include lying down—for a duration of thirty to sixty minutes on average.
 23 Both claims in Dr. Mehta’s opinion cannot be true. Either Plaintiff only needs thirty to
 24 sixty minutes to lie down on breaks, or she needs three hours to lie down before walking,
 25 sitting, or standing again. Additionally, the few sentences added specific and legitimate
 26 reasons for why Dr. Mehta’s testimony should be afforded less weight. The added
 27 reasoning points to Plaintiff’s full strength in her lower extremities, lack of muscle atrophy,
 28 and normal physical exam results. (*Id.* at 2283.) Each bolsters the ALJ’s position because

they contradict the conclusions Dr. Mehta drew. Full strength in lower extremities, lack of muscle atrophy, and a normal physical are contradictory to Dr. Mehta's conclusion that Plaintiff would need her legs elevated for at least eighty percent of the day. Thus, the ALJ's decision to afford Dr. Mehta's opinion minimal weight is supported by substantial evidence.

The ALJ additionally did not err in affording Dr. Mehta’s letter dated July 2, 2018, minimal weight. Where a conclusory opinion regarding a claimant’s disability lacks explanation, the ALJ does not err in rejecting that opinion. *See Crane v. Shalala*, 76 F.3d 251, 253 (9th Cir. 1996). Plaintiff argues that this letter was an “attempt to explain” his earlier opinion. (Doc. 13 at 15.) Defendant points out that the letter merely restates impairments already provided and simply claims Plaintiff has a “chronic disability.” (A.R. at 2102.) Because the letter fails to explain Dr. Mehta’s claim that Plaintiff has a “chronic disability,” the ALJ did not err in affording minimal weight to Dr. Mehta’s letter.

Accordingly, the Court finds that substantial evidence supports the ALJ's conclusion to afford Dr. Mehta's opinion minimal weight because the ALJ supported this conclusion with specific and legitimate reasons.

2. Nurse Practitioner Faith Carroll

Plaintiff first saw nurse practitioner Faith Carroll (“NP Carroll”) in May of 2017 for mental health treatment. (A.R. at 1451.) In June of 2017, NP Carroll provided an opinion regarding the effect Plaintiff’s mental health would have on her ability to work. (*Id.* at 1451–54.) In this opinion, NP Carroll stated that Plaintiff’s anxiety and depression would preclude her from performing more than thirty percent of her work duties and Plaintiff would miss more than six workdays a month. (*Id.* at 1453.) Additionally, NP Carroll stated that Plaintiff would be at least eighty percent less effective than the average worker. (*Id.*) NP Carroll also noted that starting in May of 2017, she would “see [Plaintiff] monthly until stabilized on medications.” (*Id.* at 1451.) NP Carroll concluded by stating Plaintiff “suffers from a very considerable amount of physical and psychological symptoms that significantly interfere with her ability to function.” (*Id.* at 1454.)

1 NP Carroll did not base this decision on any physical examinations, other medical
 2 opinions, progress notes, laboratory tests, physical therapy reports, X-Rays, CT scans, or
 3 MRIs. The only basis for her opinion was a psychological evaluation. (*Id.*)

4 The ALJ assigned minimal weight to this opinion. The ALJ reasoned that NP
 5 Carroll, provided no explanation for the psychological evaluation she relied upon, so the
 6 ALJ had nothing to compare her opinion to as a point of reference. (*Id.* at 2281.) The ALJ
 7 further reasoned that NP Carroll was opining about Plaintiff's condition three years prior
 8 to their first meeting and had very limited contact with the Plaintiff prior to the June 2017
 9 opinion. (*Id.*) Consequently, the ALJ reasoned NP Carroll must have been basing her
 10 opinion on Plaintiff's "subjective complaints of symptoms and limitations," which
 11 warranted giving less weight to NP Carroll's opinion. (*Id.* at 2281.) Lastly, the ALJ cited
 12 record evidence that Plaintiff's symptoms were stable on conservative dosages of
 13 medication. (*Id.* at 2282.) Thus, the ALJ concluded the symptoms were not as serious as
 14 alleged, and afforded NP Carroll's opinion minimal weight. (*Id.*)

15 Plaintiff argues that simply because NP Carroll has "no personal knowledge" of
 16 Plaintiff from 2014—the alleged onset of symptoms—until their meeting in 2017, this does
 17 not provide the ALJ a valid reason to reject the opinion. (Doc. 17 at 6.) Plaintiff
 18 acknowledges nurse practitioners are considered "other sources" as opposed to an
 19 "acceptable medical source." (Doc. 13 at 19.) Plaintiff, however, argues that to reject an
 20 "other sources" opinion, the ALJ is required to provide reasons that are "germane" to that
 21 source, which they failed to do. (*Id.*) Plaintiff alleges the ALJ did not provide the requisite
 22 findings, so they erred in affording NP Carroll's opinion minimal weight. (Doc. 17 at 6.)
 23 Plaintiff next argues that her depression and anxiety, although stable on medication,
 24 "caused severe symptoms," consequently fitting the required criteria to be considered a
 25 "severe impairment." (*Id.* at 5.) Plaintiff ultimately argues the ALJ erred in finding the
 26 symptoms were not as serious as alleged.

27 Nurse practitioners are not an acceptable medical source who can give medical
 28 opinions for claims filed prior to March 27, 2017. *Leon v. Berryhill*, 880 F.3d 1041, 1046

(9th Cir. 2017). Plaintiff filed her claim in 2015, so the ALJ correctly evaluated the opinion under the “other medical sources” standard. *See* 20 C.F.R. § 419.927(f). For the ALJ to reject the opinion from an “other source,” they must give germane reasons for doing so. *See Dodrill v. Shalala*, 12 F.3d 915, 919 (9th Cir. 1993). As the ALJ recognized, NP Carroll’s opinion lacked explanations for her conclusions, involved minimal treatment of Plaintiff, and was based solely on Plaintiff’s self-reported symptoms in her assessment. When an “other source,” provides limited treatment for a claimant, fails to provide an explanation for their findings, and bases their opinion on the claimant’s subjective complaints, the ALJ does not err in affording the opinion less weight. *Matney v. Sullivan*, 981 F.2d 1016, 1020 (9th Cir. 1992). In *Matney*, the ALJ concluded the opinion of an examining source was entitled to little weight “because he examined [claimant] only one time and produced a brief report. The diagnosis was based primarily upon the medical history and subjective complaints as related by [claimant].” *Id.* That court reasoned these were specific, legitimate reasons for affording the opinion minimal weight. *Id.*

Similarly, NP Carroll had very limited contact with Plaintiff prior to her opinion’s issuance. To be exact, NP Carroll had only known Plaintiff for twenty-one days prior to completing the opinion in question. (A.R. at 2281.) According to NP Carroll’s opinion, the two met monthly. (*Id.* at 1451.) This means at most, Plaintiff and NP Carroll had seen each other twice—May of 2017 and June of 2017—prior to NP Carroll’s opinion dated June 9, 2017. Additionally, NP Carroll’s opinion relied on “psychological evaluations.” The only psychological evaluation Plaintiff relies on was NP Carroll’s, which was completed the day they met, May 19, 2017. (Doc. 13 at 19.) The only source of information for this evaluation report was Plaintiff herself. (A.R. at 1653.) Consequently, the ALJ made a logical inference that NP Carroll must have been relying on Plaintiff’s “subjective complaints of symptoms and limitations.” (*Id.* at 2281.) Because NP Carroll reasonably appeared to be relying on Plaintiff’s subjective complaints, and had limited interaction with Plaintiff, this was a germane reason to afford the opinion less weight.

In addition, the ALJ found inconsistency between NP Carroll’s treatment and her

1 opinion. *See Ford v. Saul*, 950 F.3d 1141, 1154 (9th Cir. 2020) (“A conflict between a
 2 treating physician’s opinion and her own notes is a reason to not rely on the opinion.”) At
 3 their first meeting, NP Carroll said she would “see [Plaintiff] monthly until stabilized on
 4 medications.” (A.R. at 2281.) Consequently, the ALJ considered evidence that Plaintiff
 5 “took Lorazepam only a few times a week for anxiety . . . [concluding,] the fact that
 6 [Plaintiff’s] symptoms are managed with relatively low dosages of medication, suggests
 7 that the [Plaintiff’s] symptoms were not as serious as she alleged.” (A.R. at 2282.) This
 8 conservative dosage is inconsistent with NP Carroll’s opinion that states Plaintiff “suffers
 9 from a very considerable amount of physical and psychological symptoms that
 10 significantly interfere with her ability to function.” (*Id.* at 1454.) Absent an explanation
 11 from NP Carroll why this low treatment dosage was appropriate for Plaintiff’s purported
 12 major health issues, the ALJ may reasonably conclude an inconsistency existed. (A.R. at
 13 1454.) *See Thomas v. Barnhart* 278 F.3d 947, 954 (9th. Cir. 2002) (holding “[w]here the
 14 evidence is susceptible to more than one rational interpretation, one of which supports the
 15 ALJ’s decision, the ALJ’s conclusion must be upheld.”) Thus, because the evaluation lends
 16 itself to the ALJ’s interpretation that NP Carroll’s evaluation and treatment conflicted with
 17 her opinion, there is no error.

18 The ALJ did not err in affording NP Carroll’s opinion minimal weight because the
 19 ALJ gave germane reasons including Plaintiff and NP Carroll met a very limited number
 20 of times, NP Carroll’s opinion was based primarily on Plaintiff’s subjective complaints,
 21 and NP Carroll’s psychological evaluation notes are inconsistent with her opinion. The
 22 Court finds substantial evidence supports the ALJ’s conclusion in affording NP Carroll’s
 23 opinion minimal weight.

24 **3. Dr. Mary Downs**

25 Dr. Downs, a reviewing psychologist, completed a mental RFC assessment on May
 26 26, 2016. (A.R. at 163.) Dr. Downs explained that Plaintiff could understand and remember
 27 simple instructions, perform within a schedule, ask questions or request assistance, and
 28 adapt to her work environment. (*Id.*)

1 Dr. Downs explained, however, that “[Plaintiff] would do better in jobs in which a
 2 coworker such as team leader or supervisor is present to provide occasional redirection.”
 3 (*Id.*) Similarly, Dr. Downs stated “[Plaintiff] would do better in jobs with limited social
 4 interaction . . . [and those] with a predictable work environment.” (*Id.*) Dr. Downs
 5 concluded based on her review, that Plaintiff was “able to meet the basic mental demands
 6 of competitive, remunerative, unskilled work with limited social interaction/predictable
 7 work environment on a sustained basis.” (*Id.*)

8 The ALJ assigned “not significant weight” to the restrictions provided. (*Id.* at 2280–
 9 81.) The ALJ reasoned that, while Dr. Downs found Plaintiff would perform better in a
 10 work environment that had a team leader or supervisor and limited social interaction, “there
 11 was no express restriction to only these jobs.” (*Id.* at 2280.) The ALJ further identified
 12 evidence that Plaintiff “lives with family members and has reported a good ability to get
 13 along with others.” (*Id.* at 2280–81.) The ALJ reasoned that these findings support the
 14 conclusion that Plaintiff should not be strictly limited in her job search to positions that had
 15 limited social interaction and a supervisor. (*Id.*)

16 Plaintiff argues that Dr. Downs restricted Plaintiff’s job search to those where “a
 17 supervisor [is] present to give occasional redirection.” (Doc. 17 at 6.) Plaintiff contends
 18 that because of this restriction, it precludes competitive employment. (*Id.*)

19 The ALJ did not err in affording Dr. Downs suggested restrictions minimal weight.
 20 When a medical opinion provides a suggestion for the ideal employment setting, as
 21 opposed to the necessary minimum requirements for one’s employment, the ALJ is not
 22 bound to only consider jobs that fit the ideal description. *See Valentine v. Comm’r of Soc.*
 23 *Sec. Admin.*, 574 F.3d 685, 691 (9th Cir. 2009) (concluding the ALJ did not ignore mental
 24 RFC when the physician’s mental RFC assessment “did not intend to limit [claimant]
 25 strictly to simple work”). Here, no clear reading of the suggested limitations exists. Dr.
 26 Downs did not make the suggestions a condition of her overall conclusion. To the contrary,
 27 in referring to the social interaction necessary for a potential job, Dr. Downs stated
 28 “[Plaintiff] would have difficulty but is *not precluded in ability* to complete other tasks in

1 this category.” (A.R. at 163 (emphasis added).) As the ALJ noted, although Plaintiff may
 2 perform better in a work environment where she is supervised or has limited interaction,
 3 this was not an express requirement for her job search. (*Id.* at 2280–81.) Rather, these are
 4 suggestions for the environment Plaintiff would perform best in.

5 Because an employee may perform best in one job environment does not preclude
 6 the possibility that the employee could still perform adequately in a different job
 7 environment. Dr. Downs acknowledged this in her opinion by reasoning Plaintiff could
 8 complete other tasks that did not fit the more restrictive job description. (*Id.* at 163.)
 9 Similarly, record evidence supports the ALJ’s conclusion. As the ALJ pointed out, Plaintiff
 10 lives with many family members, indicating the ability to get along with others. (*Id.* at
 11 2280–81.) Therefore, although Dr. Downs provided a description of Plaintiff’s ideal work
 12 environment—which included suggested limitations—she did not expressly require these
 13 limitations, and even said Plaintiff was not precluded in her ability to complete tasks that
 14 did not fit the ideal work environment. Because a rational interpretation of the record lends
 15 itself to the ALJ’s conclusion to disregard Dr. Downs suggested limitations, her conclusion
 16 must be upheld. *See Thomas v. Barnhart* 278 F.3d 947, 954 (9th. Cir. 2002) (“Where the
 17 evidence is susceptible to more than one rational interpretation, one of which supports the
 18 ALJ’s decision, the ALJ’s conclusion must be upheld.”).

19 Because the ALJ based her decision on record evidence, and conclusions were
 20 reasonably drawn therefrom, this Court finds the ALJ provided specific and legitimate
 21 reasons to disregard Dr. Downs suggested limitations, and the ALJ’s decision is supported
 22 by substantial evidence.

23 For the foregoing reasons, the Court finds that the ALJ’s June 22, 2022 decision
 24 was supported by substantial evidence. Consequently, the Court need not address the
 25 computation of benefits issue. *Bakun v. Comm’r of Soc. Sec. Admin.*, No. CV-20-01610-
 26 PHX-DJH, 2021 WL 586687, at *3 (D. Ariz. Dec. 10, 2021) (“The Court finds that the
 27 ALJ did not err in reaching his decision. Therefore, it is unnecessary to address whether
 28 this matter should be remanded for a computation of benefits.”)

IV. CONCLUSION

Accordingly,

IT IS ORDERED affirming the June 22, 2022 decision by the Administrative Law Judge and the Commissioner of the Social Security Administration (A.R. at 2261–87).

IT IS FURTHER ORDERED directing the Clerk to enter final judgment consistent with this Order and close this case.

Dated this 13th day of March, 2024.


James A. Teilborg
Senior United States District Judge